

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Samuel A. Massey.
Title: PRINTER STRUCTURE
Appl. No.: 10/798,509
Filing Date: 03/11/2004
Examiner: Nguyen, Lamson D.
Art Unit: 2861

<p><u>CERTIFICATE OF FACSIMILE TRANSMISSION</u> I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office, Alexandria, Virginia on the date below.</p> <p><u>Todd A. Rathe</u> (Printed Name)</p> <p>_____ (Signature)</p> <p>_____ (Date of Deposit)</p>

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Office Action mailed on March 21, 2007 in which a Restriction Requirement was imposed under 35 U.S.C. §121. Applicants respect the request that the restriction requirement be withdrawn.

I. Restriction Requirement

The Office Action asserted that the claims are directed to two distinct inventions:

Invention I – Claims number 1-9, 11-27, 50-51 and 50 3-55 drawn to a printer;
and

Invention II –claims 28-36, 38, 45 and 46 and 52 drawn to a platen.

II. Restriction Traversal

Applicant respectfully traverses the restriction requirement and request that it be withdrawal. This is the second restrictor requirement imposed during prosecution of the present application. The Examiner alleges that the restriction requirement is justified because (1) the inventions are distinct because the combination does not require the particulars of the

subcombination as claim for patentability and (2) the distinct nature of the inventions "would be a serious burden on the examiner if restriction is not required." Both justifications are untrue.

A. The combination does require the particulars of the sub combination.

First, in direct contrast to the allegation raised by the Examiner, the claimed combination does require the particulars of the sub combination. The Examiner asserted that:

The combination is claimed is not require the particulars of the sub combination is claimed because the printer does not require the platen having at least one structure and the edge integrally formed as part of a single unitary body.

(Office Action dated March 21, 2007; page 2) (Emphasis Added).

However, closer inspection reveals that neither independent claims 1, directed to a printer, nor independent claim 28, directed to a platen, recite an edge "integrally formed as part of a single unitary body."

Moreover, claims 1 and 28 have substantially the same recited particulars of the sub combination. Claims 1 and 28 are provided below with common portions of the sub combination underlined.

1. A printer comprising:

a printhead along a media path having a first width; and

a structure having an edge extending across a majority of the first width of the media path, wherein the edge of the structure has a first continuous segment extending along a first portion of the first width of the media path and a second continuous segment spaced from the first continuous segment extending along a second portion of the first width of the media path.

28. A platen for use in a printer including a media path, the platen comprising:

an edge configured to extend across a majority of a width of the media path while contacting a print medium, wherein the edge has a first continuous segment extending

along the first portion of the width of the media path and a second continuous segment spaced from the first segment extending along a second portion of the width of the media path.

Obviously, an edge has to have an associated structure. Thus, the combination does include the particulars of the sub combination. The alleged justification for the restriction requirement is without merit.

B. Since the last Office Action indicated that all of the pending claims are allowable, there is no burden on the Examiner if the restriction is not required.

The Office Action dated October 6, 2006 indicated that former claim 10, which depended from claim 1 and former claim 39 which depended from claim 28 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In response, Applicant amended claims 1 (directed to a printer) and claim 28 (directed to a platen) to incorporate the limitations of claims 10 and 39, respectively.

The Office Action further indicated that former claims 20, 25 and 26 would be allowable if rewritten in independent form. In response, Applicant added claims 53, 54 and 55 which correspond to former claims 20, 25 and 26, respectively, rewritten in independent form. Thus, each and every presently pending claim of the present application is in condition for allowance.

Since each and every independent claim is in condition for allowance, how can there be any additional burden on the Examiner for issuing a notice of allowance with respect to all of the allowed claims? Alternatively, if the Examiner has changed his mind and conducted another search convincing the Examiner that the previously allowed claims are now not allowable, what additional burden can there be since the search has already been conducted? The imposition of the restriction requirement at this point in time is improper. Accordingly, the restriction require should be withdrawn.

III. Provisional Election (with Traverse)

Atty. Dkt. No.: 200312726-1

In response, Applicant hereby elects Invention I-Claims 1-9, 11-27, 50-51 and 53-55 for examination. Applicant respectfully preserves the opportunity to file one or more divisional applications for the non-elected Invention II.

Respectfully submitted,

Date April 23, 2007

By Todd A. Rathe

RATHE PATENT & IP LAW
Customer No. 22879
Telephone: (262) 478-9353
Facsimile: (262) 238-1469

Todd A. Rathe
Attorney for Applicant
Registration No. 38,276